

**THE COMMON COUNCIL OF THE CITY OF NEW ALBANY,
INDIANA HELD A MEETING IN THE CITY/COUNTY BUILDING
ON MONDAY, JUNE 5, 2006.**

The meeting of the **New Albany City Council** was called to order by President Jeff Gahan at 7:30 pm. The meeting opened with the Lord's Prayer and the Pledge of Allegiance.

MEMBERS PRESENT: Council Members Mr. Coffey, Mr. Schmidt, Mr. Price, Mr. Kochert, Ms. Crump, Mr. Blevins, Mr. Messer, Mr. Seabrook, and President Jeff Gahan.

OTHERS: City Attorney Shane Gibson and City Clerk Marcey Wisman.

ALSO: John Rosenbarger, Adam Dickey, Scott Wood, Planning and Zoning, Brian Dixon, EMC, Paul Wheatley, Economic Development Director, Tony Toran, Director of City Operations and Mayor James E. Garner, Sr.

ROLL CALL:

APPROVAL OR CORRECTION OF THE FOLLOWING MINUTES:

Mr. Schmidt moved to approve the Common Council meeting minutes of May 18, 2006, Mr. Coffey second, all voted in favor.

Mr. Seabrook made a motion to move the CF-1s before public communications, Mr. Messer second, all voted in favor

APPROVAL OF CF-1 FORMS:

L & D Mail Masters, Inc, Compliance with Statement
of Benefits, Referencing R-99-46 and R-05-06

Mr. Seabrook moved to approve, Mr. Belvins second, all voted in favor by show of hands.

Hitachi Cable Indiana, Inc., Compliance with Statement
of Benefits, Referencing R-97-10, R-97-11, R-05-46 and
R-05-47

This item was tabled.

Product Specialties, Inc., Compliance with Statement
of Benefits, Referencing R-98-14

Mr. Seabrook moved to approve, Mr. Messer second, all voted in favor by show of hands.

Samtec, Inc., Compliance with Statement
of Benefits, Referencing R-97-40 and R-01-30

Mr. Price moved to approve, Mr. Messer second, all voted in favor by show of hands.

S & J Precision, Inc., Compliance with Statement
of Benefits, Referencing R-04-37

This item was tabled.

General Mills Operation, Inc., Compliance with
Statement of Benefits, Referencing R-97-23 (RE)
And R-97-23 (PP)

Mr. Blevins moved to approve, Mr. Seabrook second, all voted in favor by show of hands.

Carl F. Booth & Co., LLC., Compliance with Statement

Of Benefits, Referencing R-99-03

Mr. Messer moved to approve, Mr. Seabrook second, all voted in favor by show of hands.

Foam Fabricators, Inc., Compliance with Statement of Benefits, Referencing R-95-31(PP)

Mr. Messer moved to approve, Mr. Price second, all voted in favor by show of hands.

Gordon L. Huncilman and Jeffery Huncilman, d/b/a Huncilman Enterprises, Compliance with Statement of Benefits, Referencing R-96-04

Mr. Blevins moved to approve, Mr. Messer second, all voted in favor by show of hands.

Ideal Wood Products, Inc., Compliance with Statement Of Benefits, Referencing R-02-35

Mr. Crump moved to approve, Mr. Messer second, all voted in favor by show of hands.

Lukemeire Industrial Mold & Machine, Compliance with Statement Of Benefits, Referencing R-00-32

This item was tabled.

McDonald Marble & Stone, Inc./ Robert & Beverly McDonald, LLC, Compliance with Statement of Benefits, Referencing R-01-10, R-03-19 and R-03-41

Mr. Kochert moved to approve, Mr. Coffey second, all voted in favor by show of hands.

Metal Sales Manufacturing Corporation, Compliance With Statement of Benefits, Referencing R-99-31 and R-99-32

Mr. Messer moved to approve, Mr. Price second, all voted in favor by show of hands.

Padgett, Inc., Compliance with Statement of Benefits, Referencing R-97-03 and R-98-05

Mr. Coffey moved to approve, Mr. Blevins second, all voted in favor by show of hands.

COMMUNICATIONS – PUBLIC:

Gina Coyle came to voice her support of Scribner Place and stated that they need to look closer at the \$30 million that they have given in tax abatements. She would like to see them rescind the tax abatements because they crowd out the funds that could be used for roads, education, stopping crime, protecting the environment and keystone revitalization projects like Scribner Place.

Bill Bevins stated that there shouldn't be a stormwater fee because they pulled all the downspouts from the sewer system. He spoke against the raising of the sewer fees because he cannot afford to pay his utilities.

Shirley Baird addressed the board about the need to set money aside in case of an unexpected emergency.

J. McClure, Trustee and Treasurer of State Street Baptist Church, spoke on behalf of State Street Baptist Church regarding the church's stormwater bill. He stated that they

were billed for two tracts of land and they really only have one. He added that they own a tract of land behind Big O Tires.

Mr. Seabrook stated that it is his understanding that the billing went out and there are some errors and he hopes that Mr. McClure's is one of them. He asked if there are any buildings or structures on the tract of land behind Big O Tires.

Mr. McClure replied no.

Mr. McCormick explained that it is very common to have properties like this that in the legal books show up as two different parcels. He added that when it goes to regular fees, they will only be charged on impervious area.

Jane Alcorn, DNA, gave a prepared statement which is on file with the City Clerk's office.

Courtney Paris, Elm Street, gave a written statement requesting that the council not rescind the funds for Scribner Place.

Roger Baylor was present to support Scribner Place.

Randy Smith addressed Mr. Blevins.

Mr. Gahan asked Mr. Smith to direct his comments to the whole council.

Mr. Smith again addressed Mr. Blevins.

Mr. Gahan asked Mr. Smith to sit down.

Mr. Smith spoke out of order.

Mr. Gahan asked Mr. Smith to leave the meeting.

Jeff Gillenwater presented the council with a map showing the average household income for the city of New Albany in 2000 and explained to the council how the lower income section of the city will pay twice for the sewers if the EDIT funds are used.

Thomas Ford, 1011 E. Spring Street, spoke in favor of Scribner Place but is confused because of some of the inconsistencies that have been presented to the public.

Lloyd Wimp, 1834 E. Spring Street, opposed the resolutions that would rescind the Scribner Place monies and take the funds from the jail bond retirement to appoint them to the sewer project.

Mike Ladd, UEC, spoke in favor of Scribner Place.

David Huckleberry spoke in opposition to Scribner Place. He stated that he does not believe that it will revitalize the downtown area. He also spoke on the issue of the new take home car policy for the police cars.

Stephen Scott spoke in favor of Scribner Place and encouraged them to do the right thing with the sewer rates and make the system work the way it should.

Yvonne Kersey, 616 E. Main Street, spoke in opposition to Scribner Place and stated that all she wanted to see was a feasibility study which was never done. She also spoke of the issue that the Governor is putting in place next year to pay police officers to retire which will have a cost of approximately \$2 million to the city. She also mentioned that there have been many volunteers to sit on the stormwater board.

Donie Thomas addressed the Daisy Lane Project and spoke in opposition to the positions of the developers and didn't understand how they could designate that residents would be 55 years or older.

L. Zoller spoke in opposition to the Bridgewater Project.

Valla Ann Bolovshak passed out a uniform Conflict of Interest Disclosure Statement for Ms. Crump's benefit; she also addressed the issue of uncollected sewer bills and asked why they have not filed sewer liens.

Mr. Coffey informed Ms. Bolovshak that he is going to ask for an independent audit.

Rebecca Mendetti addressed the council regarding the over development of New Albany and opposition to the Bridgewater Project. She stated that Daisy Lane needs to be increased to 4 lanes with sidewalks and Schell Lane is no longer safe for pedestrians.

Dick Stewart, Hazelwood Drive, spoke in opposition to the pool connected to Scribner Place. He stated that he believes they will be diverting funds that could be used on Daisy Lane, Green Valley Road or Grant Line Road to put into the swimming pool.

Brenda Scharlow spoke in favor of Scribner Place.

Doris Smith spoke in opposition to the Daisy Lane Project and went over more car accidents that have occurred on Daisy Lane. She also brought up the fact that the high rise on Graybrook Lane will have 68 units and not the 28 that they were told earlier. She added that when combined with all other complexes and residents in the Country Club Drive area, the Daisy Lane project would only add more problems to the traffic headache that they already have.

David Hagman, 2524 Schell Lane, made the statement that he does not understand how this ended here tonight. He added that Planning and Zoning should have taken a better look at this before it ended up in the council's lap.

COMMUNICATIONS – CITY OFFICIALS:

Mr. Coffey stated that there is some misconception that the West End is going down. He stated that there are several new homes being built and homes being cleaned up and that the only thing bad that has come in is the Porn Store.

Mr. Blevins stated that he doesn't take Mr. Smith's comments personally. He stated that when they were elected they were elected to represent the entire city and they have to make some very difficult decisions. He said that the council has to look at the whole city and not just a small area. He said that we need to move this city forward.

Mr. Messer stated that it bothers him that we use this forum to go after each other. He stated that he isn't sure what the programs the YMCA has for the poor but he knows that if it isn't built they won't be able to go.

Mr. Price stated that the finances of the city are a mess. He stated that he thinks differently financially than most people. He explained his beliefs on how they need to stop spending.

SEWER BOARD REPORT:

Mr. Seabrook asked Mr. Fifer to address the issues of the sewer liens.

Mr. Fifer explained that they have been filing liens fairly regularly in accordance with state law and have been for one and one half year. He added that prior to that, the city did not use a process that was in compliance with state law and therefore did not properly attach to the properties that they were intended to attach to.

There was a lengthy discussion regarding the process of filing liens.

Mr. Seabrook stated that tonight he is presenting the bill setting up the stormwater board since the sewer board somehow got entrusted with acting as the stormwater board. He explained that he is no more in favor of any kind of increase in rates than any other person in this room. He stated that there are many good people that have volunteered to serve on the stormwater board at no cost; he also reminded the council that Mr. Kochert and he have served on the sewer board for the last two and one half years at no cost. He explained that they requested an audit for six months and finally got one. The board knew that there was money being spent on sanitation and stormwater management and they fought to get it stopped and it didn't stop. He stated that he has done his very best to provide sewer board information to the council and has requested that sewer board minutes be included in their packets and they were not included in this meeting's packet. He asked the public what more are two men suppose to do. He stated to forget the Scribner part of this and asked to talk about the \$2.5 to \$3 million. He expressed that he thinks it is way too early to commit to what will be done with that because we don't know. He also explained that there is a basin in the east end called 35 that has an eight inch pipe in it that is carrying way more sewage in it than was ever intended. He acknowledged that the west end has blow outs and stated that Charlestown Road is at risk as well and they are doing everything possible to keep it to hold. He stated that he doesn't know how much it could cost to fix. He explained that he doesn't want the money to be committed to the sewers but he wants to know where the money will be put.

There was a lengthy discussion regarding the finances of the Sewer Utility finances and what accounts exist.

Mr. Fifer stated that there is a project coming up that has to be done on the Robert E. Lee line that they have to complete and he would like to meet with the council before they embark on this project to go over the financials. He also discussed the issue of the 125% debt service that they need to have within the sewer utility.

There was a lengthy discussion regarding why there is a need to increase the sewer rate.

Mr. Fifer gave a lengthy explanation regarding the problems with Basin 35 and the Robert E. Lee Pump station.

Mr. Kochert asked had the \$5 million not been used in other departments and would have been used to pay for these projects, we would've been in compliance with EPA.

Mr. Fifer replied that if we had \$5 million today, we could build everything that needs to be built.

Mr. Coffey asked if you could do so without a rate increase.

Mr. Fifer replied yes, but we couldn't be in compliance with the 125% debt service on the bond so that is an issue that still has to be wrestled with.

There was a lengthy discussion regarding the sewer utilities expenses and contracts.

Mr. Seabrook asked them if they agreed that the sewer board needs to go ahead and use the \$800,000 from Georgetown to pay for the Robert E. Lee Interceptor.

Mr. Gahan stated that they would get back with Mr. Fifer regarding a meeting.

Paul Wheatley reported that in the past six months, he has received numerous calls from people who are interested in moving into downtown strictly because of the Scribner Place project.

Mr. Rosenbarger gave a brief history of the Scribner Place project. He discussed an ordinance passed by the council in October, 2005 that stated that the council will not rescind or reduce the EDIT Pledge for Scribner Place. He reported that they are on schedule to start construction at the end of July or early August.

Mr. Coffey asked about the amounts pledged for the project.

Mr. Rosenbarger explained the pledges in detail.

Mr. Coffey compared the taxes backing up the Scribner Place to keep the rate low to the EDIT money backing up the garage when the garage was built.

COMMUNICATIONS – MAYOR:

Mayor Garner discussed his opposition to Resolutions R-06-15 and R-06-16. He also expressed that the sewer board does not want to be the stormwater board and that the council can not be the stormwater board. He stated that it has to be a separate board.

Mr. Coffey asked the Mayor questions regarding the Mayor's vote on the money for the DROP program while he was on the council. He also asked about the large debt in the Street Department.

Mayor Garner replied that they received an influx of cash from the state to cover that but it was not used for that program.

There was a lengthy discussion regarding the Street Department debt and other debts and how the city will pay them off.

Mr. Messer moved to take a recess, Mr. Kochert second, all voted in favor.

The council recessed at 10:13 p.m.

The meeting resumed at 10:19 p.m.

Mr. Coffey moved to amend the agenda to move bills Z-06-14, Z-06-15, Z-06-16 and Z-06-12 forward, Mr. Seabrook second, all voted in favor.

APPOINTMENTS:

INTRODUCTION OF ORDINANCES AND RESOLUTIONS: READING

Z-06-14	An Ordinance for the Vacation of a Public Way Pursuant to a Petition Filed by Timothy M. Janson	Blevins 1
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Mr. Blevins introduced Z-06-14 and motioned for the first reading by title only, Mr. Coffey second, all voted in favor.

Z-06-15	An Ordinance for the Vacation of a Public Way Pursuant to a Petition Filed by Timothy M. Janson	Messer 1
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Mr. Messer introduced Z-06-15 and motioned for the first reading by title only, Mr. Seabrook second, all voted in favor.

Z-06-16	An Ordinance for the Vacation of a Public Way Pursuant to a Petition Filed by Timothy M. Janson	Seabrook 1
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Mr. Seabrook introduced Z-06-16 and motioned for the first reading by title only, Mr. Schmidt second, all voted in favor.

Z-06-12	Ordinance Amending the Code of Ordinances of New Albany, Indiana Title XV, Chapter 156 (Docket P-08-06: Daisy Lane Developers, Inc.)	Crump 2&3
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Ms. Crump introduced Z-06-12 and motioned for the second reading only by title only, Mr. Schmidt second, all voted nay with the exception of Ms. Crump and Mr. Gahan.

Mr. Coffey asked why it was for the second reading only because these people will have to come back again for another meeting.

Ms. Crump stated that she is just doing what she was asked to do.

Mr. Coffey expressed his concern over the time limit on this project because it was passed by the Plan Commission.

Ms. Crump stated that they have until June 30th.

Ms. Crump motioned for the third reading, Mr. Schmidt second, all voted nay with the exception of Ms. Crump and Mr. Gahan.

R-06-15 City of New Albany Resolution R-06-15 Coffey

Mr. Seabrook asked that it be amended to read that these funds may not be used without prior approval from the council.

Mr. Coffey stated that he would like for it to be put in a non-reverting fund.

Mr. Coffey then introduced R-06-15 and motioned for the reading as amended, Mr. Price second, all voted in favor.

R-06-16 City of New Albany Resolution R-06-16 Coffey

Mr. Coffey introduced R-06-16 and motioned for the reading by title only, Mr. Price second.

Mr. Messer asked if this is not going against an ordinance that they have passed 8 to 1.

Mr. Ulrich responded that he does believe that this could open them up to a lawsuit. He does not believe that they can violate their own ordinance.

Mr. Coffey tabled this resolution until he has an opportunity to look into this further.

R-06-17 Resolution to Purchase Needed Equipment for Schmidt
Police Department

Mr. Schmidt introduced R-06-17 and motioned for the reading by title only, Mr. Seabrook second, all voted in favor with the exception of Mr. Kochert and Mr. Price who voted nay and Mr. Messer who abstained.

Mr. Seabrook asked Chief Harl if he understands correctly that there is grant money for both the ETU vehicle and the new unit car.

Chief Harl stated that there is \$40,000.00 for the ETU vehicle and \$9,000.00 for the new car.

Mr. Seabrook stated that if the Chief can put grant money against it to get two new vehicles, he thinks it's a good thing.

Mr. Price asked about the promotions and raises that were given.

Chief Harl stated that was done because he needed people in supervisory positions.

A-06-03 An Ordinance to Amend Ordinance A-05-46 Setting Kochert 2&3
Salaries for the Year 2006 for Non-Bargaining Unit
Employees

Mr. Kochert introduced A-06-03 and motioned for the second and third readings by title only, Mr. Coffey second, all voted in favor. Bill A-06-03 became Ordinance A-06-18.

G-06-13	New Albany-Floyd County Department of Parks and Recreation Ordinance Regulating the Use of City Non-Reverting Operating Fund	Price 2&3
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Mr. Price introduced G-06-13 and motioned for the second and third readings by title only, Mr. Coffey second, all voted in favor. Bill G-06-13 became Ordinance G-06-19.

G-06-14	Amendment to Ordinance to Revise Chapter 56 of City Of New Albany Code	Kochert 2&3
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Mr. Kochert introduced G-06-14 and motioned for the second and third readings by title only, Mr. Messer second, all voted in favor with the exception of Mr. Coffey, Mr. Schmidt, Mr. Price, Ms. Crump and Mr. Blevins who voted nay. Motion did not carry.

Mr. Kochert asked Chad McCormick to come forward to answer questions from the council.

Mr. Schmidt asked why they could not leave the residential fee at \$2.00 and commercial at \$3.17.

Mr. McCormick replied that legally you have to charge on a unit basis and you have to charge the same unit for all customers.

Mr. Coffey stated that the water company does that along with the electric company and gas company.

Mr. McCormick replied that is not quite the same thing because the difference there is the pipes.

Mr. Coffey asked how they came up with the amount of \$3.17.

Mr. McCormick gave a lengthy explanation as to how his firm used the arial photo of the city to measure impervious area of the city, the financial data from the controller and Melhiser, Endris and Tucker to calculate the monthly rate.

Mr. Messer asked about the estimations for the cost of setting up the board and wanted to know if salaries were allotted.

Mr. McCormick stated that the administration cost was just for getting the bills to the mailbox.

Mr. Beyke stated that the estimations were done based on the past and there was no track record of data to go off of.

Mr. Seabrook stated that he felt that Mr. Messer was asking about the administration of the department itself, not the board.

Mr. Beyke explained that there is a cost for managing the staff, resources and equipment in association with doing the drainage work.

Mr. Seabrook asked if the costs were based on nationwide, statewide or a number you came up with from our numbers.

Mr. Beyke stated that they did not come up with that number and that they got it from the Melhiser report. He then continued to explain the other estimates in detail.

There was a lengthy discussion regarding the problems with the billing process and how those charges are estimated.

G-06-07 An Ordinance Establishing the New Albany Seabrook 2&3
Storm water Drainage Board Pursuant to
Authority Granted by IC 36-9-23, Et Seq.

Mr. Seabrook went over the amendments of the bill and stated that if this does not pass tonight that he is going to request that the stormwater issues be turned over to the Board of Public Works.

Mr. Price stated that he knew of people that would sit on the board for no pay.

Mr. Seabrook stated that you are not going to be able to find an engineer to sit on that board for no pay. He stated that the salaries could be struck right now and could be changed later when you find an engineer.

There was a lengthy discussion regarding the set up of the stormwater board.

Mr. Seabrook made a motion to strike the salaries, Mr. Messer second, all voted in favor.

Mr. Gahan suggested that the stormwater board submit a budget to the council yearly to be reviewed and approved by the council no later than June 15th of each calendar year.

Mr. Coffey made a motion that the stormwater board submit a budget to the council yearly, Mr. Messer second, all voted in favor.

Mr. Seabrook introduced G-06-07 and motioned for the second and third readings as amended, Mr. Messer second, all voted in favor. Bill G-06-07 became Ordinance G-06-20.

Mr. Kochert asked the council to consider revisiting the ordinance to set the stormwater fee.

There was a lengthy discussion regarding the stormwater fee.

Mr. Blevins made a motion to reconsider G-06-14, Ms. Crump second, all voted in favor with the exception of Mr. Coffey and Mr. Gahan who voted nay.

Ms. Crump made a motion to suspend the rules for it to be brought back up, Mr. Blevins second, all voted in favor.

Mr. Blevins introduced G-06-14 in order to change his vote on second and third readings, Ms. Crump second, all voted in favor with the exception of Mr. Coffey, Mr. Price and Mr. Schmidt who voted nay. Bill G-06-14 became Ordinance G-06-21.

ADJOURNMENT:

There being no further business before the board, the meeting adjourned at 11:40 p.m.

Jeff Gahan, President
Common Council, City of New Albany

ATTEST: _____
Marcey J. Wisman, City Clerk